

IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

v.

RAMON ARAGON, *et al.*,

Defendants.

FILED
02 MAY 29 PM 1:26

69cv07941 JEC-ACE

RIO CHAMA STREAM SYSTEM

Chama Mainstream Section

NOTICE OF FILING OF STIPULATION
BY PLAINTIFF STATE OF NEW MEXICO AND
DEFENDANT ACEQUIA DEL RIO DE CHAMA

COMES NOW Plaintiff State of New Mexico *ex rel.* State Engineer and gives notice of the filing of the Stipulation by Plaintiff State of New Mexico and Defendant Acequia del Rio de Chama in connection with the Order to Show Cause (Docket No. 6707) filed May 17, 2002. The Stipulation is attached hereto as Exhibit A.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that copies of the Notice of Filing the Stipulation by Plaintiff State of New Mexico and Defendant Acequia del Rio de Chama were mailed to the following persons on May 29, 2002.



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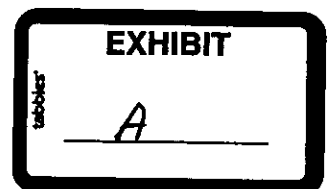
**STIPULATION BY PLAINTIFF STATE OF NEW MEXICO
AND DEFENDANT ACEQUIA DEL RIO DE CHAMA**

The State of New Mexico, *ex rel.* the State Engineer, Thomas C. Turney, through his counsel, and the Acequia del Rio de Chama, and its commissioners, enter into this Stipulation as follows:

1. The established maximum rate of flow at the measuring device for the Acequia del Rio de Chama is 11 cubic feet per second (cfs). Between April 4, 2002 and Noon May 21, 2002, the Acequia del Rio de Chama diverted water from the Rio Chama at the approximate rate of 20.8 cfs. The Rio Chama Watermaster calculates the total over diversion of water during the above period to be approximately 904 acre feet. The acequia disputes this amount.

2. The diversion of water between April 4, 2002 and Noon May 21, 2002, in excess of the maximum rate established by the Rio Chama Watermaster was in violation of the Partial Final Judgment and Decree entered July 26, 1971, the Watermaster's Rules and Regulations approved by the court on May 30, 1972, and the Watermaster Order issued April 24, 2002.

3. The court shall issue an order and continuing injunction against the Acequia del Rio de Chama, and its commissioners, prohibiting diversions in excess of the maximum rate of diversion



established by the Rio Chama Watermaster, and ordering the acequia and its commissioners to maintain a level of flow in the ditch at or below the interim reference point established in the field by the watermaster on April 18, 2002. If the Acequia del Rio de Chama fails to comply with the court's injunction, the acequia and its commissioners may be subject to sanctions, including contempt and fines, in an amount to be determined by the court, for each day it exceeds the maximum rate of diversion established by the watermaster. The mayordomo of the acequia will, however, be allowed to raise the level of flow in the ditch for short periods of time in order to allow irrigation of the 3.42 acre tract of land (subfile 10.9) located near the reference point established on April 18, 2002. Prior to raising the level of flow in the ditch above the reference point, the mayordomo or a ditch commissioner will notify the watermaster when and for how long the level of flow is to be raised. Only the mayordomo of the ditch, and not the landowner, will be allowed to raise the level of flow in the ditch, and only after prior notice to, and the approval of, the watermaster.

4. The court shall order the Acequia del Rio de Chama, and its commissioners, to replace the official measurement station for the ditch within 30 days of the court order described in paragraph 3.

5. The court shall order the Acequia del Rio de Chama, and its commissioners, to submit a water diversion plan for the remainder of the 2002 irrigation season, acceptable to the New Mexico State Engineer, that will offset the depletion effect on the Rio Chama of the acequia's over diversion of water between April 4, 2002 and May 21, 2002. The water diversion plan shall be submitted to the State Engineer within 15 days of the court order described in paragraph 3. If the State Engineer and the Acequia del Rio de Chama and its commissioners are unable to reach an agreement on an

acceptable water diversion plan within 30 days of the court order described in paragraph 3, the State Engineer shall immediately request a court hearing to resolve the matter.

IN WITNESS WHEREOF, the parties have executed this Stipulation and Defendant Acequia del Rio de Chama, a community ditch, has passed a resolution of its board of commissioners approving this stipulation and authorizing its president, Fred Vigil, and its attorney to sign this stipulation binding the acequia to its terms and provisions this 29 day of May, 2002.

STATE OF NEW MEXICO, *ex rel.* STATE ENGINEER

By: Ed Newville
Edward G. Newville, Esq.
Special Assistant Attorney General
Attorney for State of New Mexico, *ex rel.* State Engineer

ACEQUIA DEL RIO DE CHAMA

By: Fred Vigil
Fred Vigil, Commissioner and President

By: Carlos Salazar
Carlos Salazar, Commissioner

By: unavailable FSW
Gregorio Salazar, Commissioner

By: Fred Waltz
Fred Waltz, Esq.
Attorney for Acequia del Rio de Chama